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*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KRISTA O'DONOVAN, EDUARDO DE LA  
TORRE and LORI SAYSOURIVONG,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

CASHCALL, INC., a California corporation,  
and DOES 1 through DOE 50, inclusive,

Defendants.

CASHCALL, INC., a California corporation,  
Counterclaimant,

v.

LORI SAYSOURIVONG and EDUARDO  
DE LA TORRE, individually and on behalf of  
all others similarly situated,

Counterdefendants.

NO. 3:08-cv-03174-MEJ

**DECLARATION OF ARTHUR D.  
LEVY IN OPPOSITION TO  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT ON  
UNCONSCIONABILITY CLAIM**

Complaint Filed: July 1, 2008

Honorable Maria-Elena James

DATE: November 21, 2013

TIME: 10:00 A.M.

LOCATION: Courtroom B, 15th Floor

DECLARATION OF ARTHUR D. LEVY IN OPPOSITION TO  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ON  
UNCONSCIONABILITY CLAIM

CASE No. 3:08-cv-03174-MEJ

1 I, Arthur D. Levy, declare:

2 1. I am counsel of record for plaintiffs in this case. I have been active in and am  
3 familiar with the motions practice and discovery taken in this case.

4 2. Attached as **Exhibit 1** is a true and correct copy of excerpts from the transcript  
5 of the March 17, 2010 deposition of Sean Bennett.

6 3. Attached as **Exhibit 2** is a true and correct copy of a Loan Servicing Department  
7 Policies and Procedures Manual, Bates range CASHCALL 000938-1047 and marked as Exhibit  
8 20 to the transcript of the March 17, 2010 deposition of Sean Bennett.

9 4. Attached as **Exhibit 3** is a true and correct copy of excerpts from the transcript  
10 of the October 10, 2013 deposition of Bruce Carlin.

11 5. Attached as **Exhibit 4** is a true and correct copy of excerpts from the transcript  
12 of the August 9, 2013 deposition of John Fuller.

13 6. Attached as **Exhibit 5** is a true and correct copy of excerpts from the transcript  
14 of the July 9, 2013 deposition of Hillary Holland.

15 7. Attached as **Exhibit 6** is a true and correct copy of the September 16, 2013  
16 Expert Report by Adam Levitin.

17 8. Attached as **Exhibit 7** is a true and correct copy of the October 15, 2013 Expert  
18 Rebuttal Report by Adam Levitin.

19 9. Attached as **Exhibit 8** is a true and correct copy from the transcripts of the  
20 March 15 and March 16, 2010 depositions of Brendan McCarthy.

21 10. Attached as **Exhibit 9** is a true and correct copy of a New Hire Training Manual,  
22 Bates range CASHCALL 000782-862 and marked as Exhibit 2 to the transcript of the March  
23 15, 2010 deposition of Brendan McCarthy.

24 11. Attached as **Exhibit 10** is a true and correct copy of Loan Agent Reference  
25 Tool, Bates range CASHCALL 001633-16335 and marked as Exhibit 4 to the transcript of the  
26 March 15, 2010 deposition of Brendan McCarthy.

1           12. Attached as **Exhibit 11** is a true and correct copy of Loan Agent Reference  
2 Tool, Bates range CASHCALL 001636-16338 and marked as Exhibit 5 to the transcript of the  
3 March 15, 2010 deposition of Brendan McCarthy.

4           13. Attached as **Exhibit 12** is a true and correct copy of CashCall's Loan  
5 Application, Bates range CASHCALL 000148-1180 and marked as Exhibit 7 to the transcript  
6 of the March 15, 2010 deposition of Brendan McCarthy.

7           14. Attached as **Exhibit 13** is a true and correct copy of excerpts from the  
8 transcripts of the June 13 and July 8, 2013 depositions of Delbert Meeks.

9           15. Attached as **Exhibit 14** is a true and correct copy of a document titled "CashCall  
10 Financing II, LLC," dated April 2006, Bates range CASHCALL 025812-025916 and marked as  
11 Exhibit 75 to the transcript of the July 8, 2013 deposition of Delbert Meeks.

12           16. Attached as **Exhibit 15** is a true and correct copy of a document titled "CashCall  
13 Financing II, LLC," dated March 2007, Bates range CASHCALL 026091-026199 and marked  
14 as Exhibit 76 to the transcript of the July 8, 2013 deposition of Delbert Meeks.

15           17. Attached as **Exhibit 16** is a true and correct copy of a document Bates range  
16 CASHCALL 026058-026090 and marked as Exhibit 77 to the transcript of the July 8, 2013  
17 deposition of Delbert Meeks.

18           18. Attached as **Exhibit 17** is a true and correct copy of the September 18, 2013  
19 Expert Report by Margot Saunders.

20           19. Attached as **Exhibit 18** is a true and correct copy of excerpts from the transcript  
21 of the September 18, 2013 deposition of Class Member, Johnny Cook.

22           20. Attached as **Exhibit 19** is a true and correct copy of excerpts from the transcript  
23 of the November 10, 2009 deposition of Class Representative, Eduardo De La Torre.

24           21. Attached as **Exhibit 20** is a true and correct copy of excerpts from the transcript  
25 of the August 16, 2013 deposition of Class Member, Yosvin De Leon.

26           22. Attached as **Exhibit 21** is a true and correct copy of excerpts from the transcript  
27 of the August 16, 2013 deposition of Class Member, Tonya Gerald.

23. Attached as **Exhibit 22** is a true and correct copy of excerpts from the transcript of the August 27, 2013 deposition of Class Member, Lori Hume.

24. Attached as **Exhibit 23** is a true and correct copy of excerpts from the transcript of the August 27, 2013 deposition of Class Member, Barbara Jennings.

25. Attached as **Exhibit 24** is a true and correct copy of excerpts from the transcript of the September 5, 2013 deposition of Class Member, Tonye Niweigha.

26. Attached as **Exhibit 25** is a true and correct copy of excerpts from the transcript of the May 28, 2010 deposition of Class Representative, Lori Saysourivong.

27. Attached as **Exhibit 26** is a true and correct copy of excerpts from the transcript of the November 9, 2009 deposition of Class Member, Krista O'Donovan.

28. Attached as **Exhibit 27** is a true and correct copy of the "Final Order on Phase I of Trial: The States Debt Collection Claims," filed September 10, 2012 in *State of West Virginia ex re. Darrell V. McGraw, Jr., Attorney General v. CashCall, Inc. and J. Paul Reddam, in his capacity as president and CEO of CashCall, Inc.*, in Civil Action No.: 08C 1964 in the Circuit Court of Kanawha County West Virginia.

29. Attached as **Exhibit 28** is a true and correct copy of excerpts from Defendant CashCall, Inc.'s Responses to Plaintiffs Krista O'Donovan and Eduardo de la Torre's Interrogatories Set One.

30. Attached as **Exhibit 29** is a true and correct copy of excerpts from Defendant CashCall, Inc.'s Response to Interrogatories, Set Two.

31. Attached as **Exhibit 30** is a true and correct copy of excerpts from Defendant's Amended Response to Interrogatories, Set No. 3.

32. The following table is a tabulation of CashCall's annual production of \$2,600 loans taken from its Annual Reports to the Department of Corporations, which are included in the Baren Declaration, Dkt. 168 & 168-1:

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Year	\$2,600 Loans at 90+% Interest	% of Total	Cumulative % of Total	Dkt. 168 & 168-1 Page #
2005	16,067 <sup>1</sup>	12.0%	12.0%	37
2006	58,199	43.5%	55.5%	62
2007	22,289	16.7%	72.2%	86
2008	6,166	4.6%	76.8%	114
2009	3,391	2.5%	79.3%	14
2010	18,978	14.2%	93.5%	44
2011	8,701 <sup>2</sup>	6.5%	100.0%	74
Total	133,791	100.0%		

33. Attached as **Exhibit 31** is a tabulation of CashCall's advertising expenses. All figures are taken from Exhibit 4 to Christopher James's Report (Dkt. 172 at p. 56), except for 2007, which is taken from CashCall's 2007 Annual Report to the Department of Corporations (Dkt. 168 at p. 82).

34. Attached as **Exhibit 32** is a tabulation of CashCall's number of projected loans and yearly profit margin from January 2010 to June 2011. All figures are taken from the spreadsheet, bates labeled CASHCALL009017\_CONFIDENTIAL, that CashCall produced.

35. **Exhibit 33** is a video and a transcription of CashCall's 2004 television commercial, number ZKAJ-1029. This exhibit will be lodged in a CD with the Court.

36. **Exhibit 34** is a video and a transcript of CashCall's 2005 television commercial, number ZKAJ-1162. This exhibit will be lodged in a CD with the Court.

37. **Exhibit 35** is a video and a transcript of CashCall's 2005 television commercial, number ZKAJ-1294. This exhibit will be lodged in a CD with the Court.

38. **Exhibit 36** is a video and a transcript of CashCall's 2005 television commercial, number ZKAJ-1377. This exhibit will be lodged in a CD with the Court.

<sup>1</sup> This figure is 1/3 of the reported number, to reflect that CashCall began making 96% interest loans in August 2005.

<sup>2</sup> This figure is 1/2 of the reported number, to reflect that the Unconscionability Class ends in July 2011.

39. **Exhibit 37** is a video and a transcript of CashCall's 2007 television commercial, number ZKAJ-1905. This exhibit will be lodged in a CD with the Court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 31<sup>st</sup> day of October 2013 at San Francisco, California.

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*Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures,  
Whitney Stark hereby attests that concurrence in the filing of this document has been obtained.*

CERTIFICATE OF SERVICE

I, Whitney B. Stark, hereby certify that on October 31, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Dated: October 31, 2013.

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